

The Honorable Thomas Zilly
Noted for: Dec 21, 2001
Oral argument requested by
plaintiff

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AT SEATTLE
CLERK U S DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 WILLIAM ROBERT SMITH II,

Plaintiff,

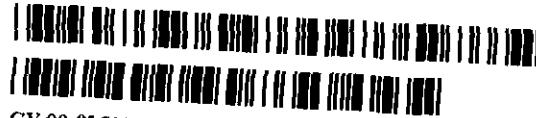
v.

13 OFFICER R. GONZALES, OFFICER
14 JOHN DOE TOWNE, Seattle Police
Officers, Individually in their Personal
15 capacity, and CHIEF OF POLICE NORM
STAMPER, Individually in his Personal
Capacity and as Chief, Supervisor and
16 Policy Maker in his official capacity, and
17 THE CITY OF SEATTLE, a Municipal
Corporation, and Unknown Policy Makers,

Defendants.

No. C00-1615 Z

**SUPPLEMENTAL DECLARATION OF
JOHN J. KANNIN**



CV 00-01615 #00000032

21 JOHN J. KANNIN, states and declares as follows:

22 1. I am the attorney for William Robert Smith, plaintiff in the above captioned matter
23 and make this declaration in support of Plaintiff's Sur Reply. The following statements are based
24 upon my personal knowledge, and I am competent to testify to the matters set forth in this
25 declaration;

SUPPLEMENTAL DECLARATION OF JOHN J. KANNIN –Page 1

KANNIN LAW FIRM P S
3701 East Garfield Street
Seattle, WA 98112
Telephone (206) 709-2788

1 2. To the best of my knowledge and belief the statements made in the plaintiff's Sur
2 Reply are true and correct statements;

3 4. Attached hereto as Exhibit A is a true and correct copy of the Declaration of David
5 Predmore and his curriculum vitae. Mr. Predmore previously sent these documents to my office,
6 after he had reviewed the facts of this case. His review included the medical report containing the
7 results of drug and alcohol tests done on Mr. Smith in the Harborview Emergency Room;

8 I state under the penalty of perjury of the laws of the State of Washington and of the
9 United States that the above statements are true and correct.

10 11 Signed at Seattle, Washington this 3rd day of January 2002.

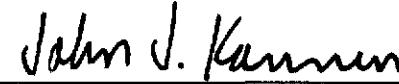
12 13 
14 15 16 17 18 19 20 21 22 23 24 25 26
John J. Kannin

EXHIBIT 1

William R. Smith

Plaintiff, DECLARATION OF DAVID PREDMORE

City of Seattle, ET AL.

Defendants.

David Predmore, declares as follows.

1. I am over the age of eighteen (18) years, I am competent to testify and I make these statements of my own personal knowledge and belief.

2 My education, training and experience is in the field of toxicology. I served at the Washington State Toxicology Laboratory for twenty-eight years. Based upon my general knowledge, education, training and experience, I believe the statements in this declaration to be true based upon reasonable toxicological certainty

3 In more than twenty-eight years, I have studied and testified about the effects of
ethyl alcohol on people. I have testified hundreds of times in various courts concerning these
issues in most of the courts in Washington State. I have testified for the City of Seattle on many
occasions. I have also testified in the Superior and Federal Courts in Seattle concerning these
issues.

4 The issue in this case revolves around the effect ethyl alcohol was having on Mr. Smith. He had a urine test result done at Harborview of 0.126 gm/dl.

DECLARATION OF DAVID FREEMORE - 1

5. A urine test result is not reliable for assessing the effect of ethyl alcohol on a person. It cannot be related to an equivalent blood alcohol result. It is very likely that this result is substantially higher than the corresponding blood alcohol had it been drawn and tested at the same time.

6. A moderately experienced drinker would not be expected to be "out of it" even with a blood test result of 0.12 or 0.13. That is a common result in DUI cases in which people show only minor impairment. However, in this instance the test is of urine which cannot be reliably related to effects in any way. A corresponding blood test may be 0.06 or lower. There is simply no way to determine the equivalence.

7 I would not expect Mr Smith to be drunk if he had a urine result of 126 mg/dl
which equals 0.126 g/m/dl

I declare under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

David Friedman
David Friedman
Dated: 3/39/01
Place: Estesville, WA

DAVID PREDMORE
P.O. Box 471, Eatonville, WA 98328
360 832 3441 or 206 498 7751 or 206 353 2982
FAX 603 676 5337
E-Mail davepredmore@netscape.net

QUALIFICATIONS AND EXPERIENCE

EMPLOYMENT:

Research Technologist - Division of Neurology, U. of Washington Medical School -
May 1970 to September 1971

Forensic Toxicologist Supervisor - Washington State Toxicology Laboratory -
September 1971 to May 1999

Acting Scientific Director - SmithKline Beecham Forensic Toxicology Laboratory,
Seattle - January 1990 to August 1991

EDUCATION:

BA CHEMISTRY - Pacific Lutheran University, Tacoma, WA 1969 MS

CHEMISTRY - University of Washington, Seattle, WA 1974

TRAINING:

Alcohol Related Studies: Conducted, observed, and participated in alcohol related experiments including effects, metabolism, blood/breath partition ratios and field observations since 1971.

Tricyclic Antidepressants: Use and Detection - Dr. Leo Kadehjian, March 1999

Marijuana Workshop - American Academy of Forensic Sciences, February 1999.

Certification of Toxicological Death with an Emphasis on Methamphetamine -Dr. Corrine Fligner, December 1998.

Validation of Field Sobriety Tests at 0.05 and 0.08, and the Effects of Low Levels of Alcohol and Driving - Marcelline Burns, November 1998.

The Role of Beta2 Agonists in Asthma Deaths - Fiona Couper, September 1998.

Alcohol, Drugs and Driving in Australia - Olaf Drummer, May 1998.

Postmortem Drug Redistribution and Change - Olaf Drummer, May 1998.

Methamphetamine and Driving - Barry Logan, March 1998.

Gaze Nystagmus for Traffic Law Enforcement - Robert Yolton, December 1997.

Boer and its Forensic Implications - Glenn Case, November 1997.

Stimulant Induced Impairment - California Association of Toxicologists - Lake Tahoe, May 1996.

Medical Toxicology - American Academy of Forensic Sciences, February 1995.

Pharmacology and Toxicology of New Drugs: New Challenges for the Forensic Toxicologist - American Academy of Forensic Sciences, February 1995.

Cocaine in Court: Practical Approaches to Key Forensic Issues - American Academy of Forensic Sciences, February 1995.

Cocaine Psychosis Seminar - Northwest Association of Forensic Scientists, November 1994.

Drug Recognition Expert Training Workshop - Northwest Association of Forensic Scientists, November 1994.

Modern Practice of Forensic Toxicology: Current Status and Future Trends -American Academy of Forensic Sciences, February 1990.

Pharmacology and Toxicology of Opioids - American Academy of Forensic Sciences, February 1990.

Psychotherapeutic Drugs: Analysis, Pharmacokinetics, Clinical Toxicology, and Therapeutic Use - American Academy of Forensic Sciences, February 1989.

Alcohol Absorption and Dissipation Workshop - Northwest Association of Forensic Scientists, October 1988.

Designer Drugs - American Academy of Forensic Sciences, February 1987.

The Cannabinoids: Current Methodology and Interpretation - American Academy of Forensic Sciences, February 1986.

Driving Under the influence of Alcohol: Current Legal and Scientific Issues -American Academy of Forensic Sciences, February 1986.

Drugs and Driving - American Academy of Forensic Sciences, February 1985.

Blood and Breath Alcohol Determinations Seminar - American Academy of Forensic Sciences, February 1985.

Supervision of Breath Tests for Intoxication Programs - University of Indiana, 1985 and 1995.

Operation and Servicing of The BAC Datamaster II - Verax Systems, 1985.

Toxicology Workshop - American Association of Clinical Chemists, 1974.

Finnigan Basic GC-MS Operators Course, 1973.

PAPERS AND PUBLICATIONS:

Rapid Determination of Barbiturates by Gas Chromatography - Mass Spectrometry, Analytical Chemistry, March 1973.

The Use of Chemical Ionization to Identify Drug Overdoses, Proceedings of the 24th Conference on mass Spectrometry and Allied Topics, San Diego, CA, pp 105-108.

Enhancement of Fine Structure of Ultraviolet Spectra Applied to the Direct Extraction of Drugs from Urine, Analytical Chemistry, February 1976.

Recovery of Morphine from Biological Samples by Hydrolysis and Solvent Extraction, Journal of Forensic Science, V 23, No 3, 1978.

Alcohol and the Impaired Driver - Washington State from 1973 - 1982, American Academy of Forensic Sciences, 1986.

Chapter in the book "FORENSIC SCIENCE", Second Edition, 1986, American Chemical Society, entitled "Forensic Toxicology, Analytical and Medicolegal Aspects"

BAC Datamaster II - The First Year - American Academy of Forensic Sciences, 1987.

Variation of Blood Alcohol Concentration Following the Last Drink, Proceedings of the 24th Meeting of The International Association of Forensic Toxicologists, Banff, Canada, 1987

Extraction of Drugs from Blood Using XAD-2 Resin, American Academy of Forensic Sciences, February 1989.

Breath vs. Blood Alcohol Concentration: A Comparison of Five Breath Testing Devices, American Academy of Forensic Sciences, 1989.

Peak Breath Alcohol Concentration, Widmark Calculations, and Some Interesting Observations Following Drinking, Northwest Association of Forensic Scientists, 1992.

Comparison of Two Solid Phase Extractions for Acid/Neutral Drugs, Northwest Association of Forensic Scientists, 1992.

WORK/COURT EXPERIENCE:

Tested thousands of samples for the presence of alcohol and other drugs during twenty-eight years at the State Toxicology Laboratory

Testified several hundreds of times as an expert witness concerning the effects of alcohol and other drugs in various types of cases in Municipal, District, Superior, and US District Courts throughout the State of Washington.